

## **EXHIBIT 23**

AMENDED IN SENATE AUGUST 23, 2024

AMENDED IN SENATE AUGUST 15, 2024

AMENDED IN SENATE JULY 3, 2024

AMENDED IN SENATE JUNE 24, 2024

AMENDED IN ASSEMBLY MAY 2, 2024

AMENDED IN ASSEMBLY APRIL 11, 2024

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

## ASSEMBLY BILL

**No. 2839**

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**Introduced by Assembly Members Pellerin and Berman**  
**(Principal coauthor: Assembly Member Cervantes)**  
**(Coauthors: Assembly Members Bennett, Jackson, Quirk-Silva,**  
**Ting, Valencia, Weber, and Wood)**  
**(Coauthors: Senators Becker and Dodd)**

February 15, 2024

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An act to amend Section 35 of the Code of Civil Procedure, and to add Section 20012 to the Elections Code, relating to ~~elections~~ *elections*, and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2839, as amended, Pellerin. Elections: deceptive media in advertisements.

Existing law prohibits certain distribution of materially deceptive audio or visual media of a candidate within 60 days of an election at which the candidate will appear on the ballot, unless the media includes a disclosure stating that the media has been manipulated, subject to specified exemptions. Existing law authorizes a candidate whose voice

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or likeness appears in audio or visual media distributed in violation of these provisions to the specified actions, and it requires a court to place such proceedings on the calendar in the order of their date of filing and give the proceedings precedence.

This bill would prohibit a person, committee, or other entity from knowingly distributing an advertisement or other election communication, as defined, that contains certain materially deceptive content, as defined, with malice, as defined, subject to specified exemptions. The bill would apply this prohibition within 120 days of an election in California and, in specified cases, 60 days after an election. The bill would authorize a recipient of materially deceptive content distributed in violation of this section, candidate or committee participating in the election, or elections official, as defined, to file a civil action to enjoin the distribution of the media and to seek damages against the person, committee, or other entity that distributed it, except as specified. The bill would require a court to place such proceedings on the calendar in the order of their date of filing and give the proceedings precedence.

*This bill would incorporate additional changes to Section 35 of the Code of Civil Procedure proposed by AB 2655 to be operative only if this bill and AB 2655 are enacted and this bill is enacted last.*

*This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 35 of the Code of Civil Procedure, as  
2 amended by Section 1 of Chapter 343 of the Statutes of 2023, is  
3 amended to read:  
4 35. (a) Proceedings in cases involving the registration or denial  
5 of registration of voters, the certification or denial of certification  
6 of candidates, the certification or denial of certification of ballot  
7 measures, election contests, actions under Section 20010 or 20012  
8 of the Elections Code, and actions under Chapter 2 (commencing  
9 with Section 21100) of Division 21 of the Elections Code shall be  
10 placed on the calendar in the order of their date of filing and shall  
11 be given precedence.

1 (b) This section shall remain in effect only until January 1, 2027,  
2 and as of that date is repealed, unless a later enacted statute, that  
3 is enacted before January 1, 2027, deletes or extends that date.

4 *SEC. 1.5. Section 35 of the Code of Civil Procedure, as*  
5 *amended by Section 1 of Chapter 343 of the Statutes of 2023, is*  
6 *amended to read:*

7 35. (a) Proceedings in cases involving the registration or denial  
8 of registration of voters, the certi@cation or denial of certi@cation  
9 of candidates, the certi@cation or denial of certi@cation of ballot  
10 measures, election contests, actions under Section 20010 or 20012  
11 of the Elections Code, *actions under Chapter 7 (commencing with*  
12 *Section 20510) of Division 20 of the Elections Code*, and actions  
13 under Chapter 2 (commencing with Section 21100) of Division  
14 21 of the Elections Code shall be placed on the calendar in the  
15 order of their date of @ling and shall be given precedence.

16 (b) This section shall remain in effect only until January 1, 2027,  
17 and as of that date is repealed, unless a later enacted statute, that  
18 is enacted before January 1, 2027, deletes or extends that date.

19 *SEC. 2. Section 35 of the Code of Civil Procedure, as amended*  
20 *by Section 2 of Chapter 343 of the Statutes of 2023, is amended*  
21 *to read:*

22 35. (a) Proceedings in cases involving the registration or denial  
23 of registration of voters, the certi@cation or denial of certi@cation  
24 of candidates, the certi@cation or denial of certi@cation of ballot  
25 measures, election contests, actions under Section 20012 of the  
26 Elections Code, and actions under Chapter 2 (commencing with  
27 Section 21100) of Division 21 of the Elections Code shall be placed  
28 on the calendar in the order of their date of @ling and shall be given  
29 precedence.

30 (b) This section shall become operative January 1, 2027.

31 *SEC. 2.5. Section 35 of the Code of Civil Procedure, as*  
32 *amended by Section 2 of Chapter 343 of the Statutes of 2023, is*  
33 *amended to read:*

34 35. (a) Proceedings in cases involving the registration or denial  
35 of registration of voters, the certi@cation or denial of certi@cation  
36 of candidates, the certi@cation or denial of certi@cation of ballot  
37 measures, election contests, *actions under Section 20012 of the*  
38 *Elections Code, actions under Chapter 7 (commencing with Section*  
39 *20510) of Division 20 of the Elections Code*, and actions under  
40 Chapter 2 (commencing with Section 21100) of Division 21 of the

1 Elections Code shall be placed on the calendar in the order of their  
2 date of filing and shall be given precedence.

3 (b) This section shall become operative January 1, 2027.

4 SEC. 3. Section 20012 is added to the Elections Code, to read:

5 20012. (a) The Legislature finds and declares as follows:

6 (1) California is entering its first-ever artificial intelligence (AI)  
7 election, in which disinformation powered by generative AI will  
8 pollute our information ecosystems like never before. Voters will  
9 not know what images, audio, or video they can trust.

10 (2) In a few clicks, using current technology, bad actors now  
11 have the power to create a false image of a candidate accepting a  
12 bribe, or a fake video of an elections official "caught on tape"  
13 saying that voting machines are not secure, or generate an artificial  
14 robocall in the Governor's voice telling millions of Californians  
15 their voting site has changed.

16 (3) In the lead-up to the 2024 presidential elections, candidates  
17 and parties are already creating and distributing deepfake images  
18 and audio and video content. These fake images or files can skew  
19 election results, even if they use older methods of distribution,  
20 such as mail, television, telephone, and text, and undermine trust  
21 in the ballot counting process.

22 (4) In order to ensure California elections are free and fair,  
23 California must, for a limited time before and after elections,  
24 prevent the use of deepfakes and disinformation meant to prevent  
25 voters from voting and deceive voters based on fraudulent content.  
26 The provisions of this bill are narrowly tailored to advance  
27 California's compelling interest in protecting free and fair elections.

28 (5) The labeling information required by this bill is narrowly  
29 tailored to provide consumers with factual information about the  
30 inauthenticity of particular images, audio, video, or text content  
31 in order to prevent consumer deception.

32 (b) (1) A person, committee, or other entity shall not, during  
33 the time period set forth in subdivision (c), with malice, knowingly  
34 distribute an advertisement or other election communication  
35 containing materially deceptive content of any of the following:

36 (A) A candidate for any federal, state, or local elected office in  
37 California portrayed as doing or saying something that the  
38 candidate did not do or say if the content is reasonably likely to  
39 harm the reputation or electoral prospects of a candidate.

1 (i) For purposes of subparagraph (A), "candidate for any federal,  
2 state, or local elected office" includes any person running for the  
3 office of President of the United States or Vice President of the  
4 United States who seeks to or will appear on a ballot issued in  
5 California.

6 (B) An election official portrayed as doing or saying something  
7 in connection with an election in California that the election  
8 official did not do or say if the content is reasonably likely to  
9 falsely undermine confidence in the outcome of one or more  
10 election contests.

11 (C) An elected official portrayed as doing or saying something  
12 in connection with an election in California that the elected official  
13 did not do or say if the content is reasonably likely to harm the  
14 reputation or electoral prospects of a candidate or is reasonably  
15 likely to falsely undermine confidence in the outcome of one or  
16 more election contests.

17 (D) A voting machine, ballot, voting site, or other property or  
18 equipment related to an election in California portrayed in a  
19 materially false way if the content is reasonably likely to falsely  
20 undermine confidence in the outcome of one or more election  
21 contests.

22 (2) Notwithstanding subparagraph (A) of paragraph (1), this  
23 section does not apply to a candidate portraying themselves as doing  
24 or saying something that the candidate did not do or say if the  
25 content includes a disclosure stating "This \_\_\_\_\_ has been  
26 manipulated." and complies with the following requirements:

27 (A) The blank in the disclosure required by paragraph (2) shall  
28 be filled with whichever of the following terms most accurately  
29 describes the media:

30 (i) Image.

31 (ii) Audio.

32 (iii) Video.

33 (B) (i) For visual media, the text of the disclosure shall appear  
34 in a size that is easily readable by the average viewer and no  
35 smaller than the largest font size of other text appearing in the  
36 visual media. If the visual media does not include any other text,  
37 the disclosure shall appear in a size that is easily readable by the  
38 average viewer. For visual media that is video, the disclosure shall  
39 appear for the duration of the video.

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(ii) If the media consists of audio only, the disclosure shall be read in a clearly spoken manner and in a pitch that can be easily heard by the average listener, at the beginning of the audio, at the end of the audio, and, if the audio is greater than two minutes in length, interspersed within the audio at intervals of not greater than two minutes each.

(3) *Notwithstanding paragraph (1), this section does not apply to an advertisement or other election communication containing materially deceptive content that constitutes satire or parody if the communication includes a disclosure stating "This \_\_\_\_\_ has been manipulated for purposes of satire or parody." The disclosure shall comply with the requirements set forth in subparagraphs (A) and (B) of paragraph (2).*

(4) (A) *A person, committee, or other entity shall not, during the time period set forth in subdivision (c), do either of the following:*

(i) *Remove any disclosure required by paragraph (2) or (3).*  
 (ii) *Knowingly republish any content subject to paragraph (2) or (3) without the required disclosure.*

(B) *A violation of subparagraph (A) is evidence of intent to knowingly distribute an advertisement or other election communication containing materially deceptive content, as prohibited by paragraph (1).*

(c) *The prohibition in subdivision (b) applies only during the following time periods:*

(1) *One hundred twenty days before any election in California.*

(2) *For people and items set forth in subparagraphs (B) and (D) of paragraph (1) of subdivision (b), 120 days before any election in California through 60 days after the election, inclusive.*

(d) (1) *A recipient of materially deceptive content distributed in violation of this section, candidate or committee participating in the election, or elections of official may seek injunctive or other equitable relief prohibiting the distribution of the materially deceptive content in violation of this section. The court shall also award a prevailing plaintiff reasonable attorney's fees and costs. An action under this paragraph shall be entitled to precedence in accordance with Section 35 of the Code of Civil Procedure.*

(2) ~~(i)-(A)~~ *A recipient of materially deceptive content distributed in violation of this section, candidate or committee participating in the election, or elections of official may bring an*

1 action for general or special damages against the person,  
2 committee, or other entity that distributed *or republished* the  
3 materially deceptive content in violation of this section. The court  
4 shall also award a prevailing party reasonable attorney's fees and  
5 costs. This subdivision shall not be construed to limit or preclude  
6 a plaintiff from securing or recovering any other available remedy  
7 at law or equity.

8 (ii)

9 (B) This paragraph does not apply to a broadcasting station *or*  
10 *internet website* that distributed the materially deceptive content  
11 if the broadcasting station *or internet website* did not create the  
12 content.

13 (3) In any civil action alleging a violation of this section, the  
14 plaintiff shall bear the burden of establishing the violation through  
15 clear and convincing evidence.

16 (e) (1) This section does not apply to a broadcasting station  
17 that broadcasts any materially deceptive content prohibited by this  
18 section as part of a bona fide newscast, news interview, news  
19 documentary, commentary of general interest, or on-the-spot  
20 coverage of bona fide news events, if the broadcast clearly  
21 acknowledges through content or a disclosure, in a manner that  
22 can be easily heard or read by the average listener or viewer, that  
23 the materially deceptive content does not accurately represent any  
24 actual event, occurrence, appearance, speech, or expressive  
25 conduct.

26 (2) This section does not apply to a broadcasting station when  
27 it is paid to broadcast materially deceptive content and either of  
28 the following circumstances exist:

29 (A) The broadcasting station can show that it has prohibition  
30 and disclaimer requirements that are consistent with the  
31 requirements in this section and that it has provided those  
32 prohibition and disclaimer requirements to each person or entity  
33 that purchased the advertisement.

34 (B) Federal law requires the broadcasting station to air  
35 advertisements from legally qualified candidates or prohibits the  
36 broadcasting station from censoring or altering the message.

37 (3) This section does not apply to a regularly published  
38 newspaper, magazine, or other periodical of general circulation,  
39 including an internet or electronic publication, that routinely carries  
40 news and commentary of general interest, and that publishes any



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1 materially deceptive content prohibited by this section, if the  
 2 publication clearly states that the materially deceptive content does  
 3 not accurately represent any actual event, occurrence, appearance,  
 4 speech, or expressive conduct.

5 (4) This section does not ~~apply to materially deceptive content~~  
 6 ~~that constitutes satire or parody.~~ *impose liability on an interactive*  
 7 *computer service, as de®ned in Section 230(f)(2) of Title 47 of the*  
 8 *United States Code.*

9 (f) For purposes of this section, the following de®nitions apply:

10 (1) "Advertisement" means any general or public  
 11 communication that is authorized or paid for the purpose of  
 12 supporting or opposing a candidate for elective office in California  
 13 or a ballot measure that appears on a ballot issued in California  
 14 and that is broadcast by or through television, radio, telephone, or  
 15 text, *distributed through the internet*, or disseminated by print  
 16 media, including billboards, video billboards or screens, and other  
 17 similar types of advertising.

18 (2) "Broadcasting station" means a radio or television  
 19 broadcasting station, including any of the following:

20 (i) Cable operator, programmer, or producer.  
 21 (ii) Streaming service operator, programmer, or producer.  
 22 (iii) Direct-to-home satellite television operator, programmer,  
 23 or producer.

24 (3) "Committee" means a committee as de®ned in Section 82013  
 25 of the Government Code.

26 (4) "Deepfake" means audio or visual media that is digitally  
 27 created or modified such that it would falsely appear to a reasonable  
 28 person to be an authentic record of the actual speech or conduct  
 29 of the individual depicted in the media.

30 (5) "Election communication" means any general or public  
 31 communication not covered under "advertisement" that is broadcast  
 32 by or through television, radio, telephone, or text, *distributed*  
 33 *through the internet*, or disseminated by print media, including  
 34 billboards, video billboards or screens, and other similar types of  
 35 communications, that concerns any of the following:

36 (A) A candidate for office or ballot measure.  
 37 (B) Voting or refraining from voting in an election.  
 38 (C) The canvass of the vote.

39 (6) "Elections official" means any of the following persons, but  
 40 only in their capacity as a person charged with holding or

1 conducting an election, conducting a canvass, assisting with the  
2 holding or conducting of an election or a canvass, or performing  
3 another duty related to administering the provisions of the Elections  
4 Code:

5 (i) An elections official as defined in Section 320.  
6 (ii) The Secretary of State and their staff.  
7 (iii) A temporary worker, poll worker, or member of a precinct  
8 board.

9 (iv) Any other person charged with holding or conducting an  
10 election, conducting a canvass, assisting with the holding or  
11 conducting of an election or a canvass, or performing another duty  
12 related to administering the provisions of the Elections Code.

13 (7) "Malice" means the person, committee, or other entity  
14 distributed the audio or visual media knowing the materially  
15 deceptive content was false or with a reckless disregard for the  
16 truth.

17 (8) (A) "Materially deceptive content" means audio or visual  
18 media that is intentionally digitally created or modified, which  
19 includes, but is not limited to, deepfakes, such that the content  
20 would falsely appear to a reasonable person to be an authentic  
21 record of the content depicted in the media.

22 (B) "Materially deceptive content" does not include any audio  
23 or visual media that contains only minor modifications that do not  
24 significantly change the perceived contents or meaning of the  
25 content. Minor changes include changes to brightness or contrast  
26 of images, removal of background noise in audio, and other minor  
27 changes that do not impact the content of the audio or visual media.

28 (9) "Recipient" includes a person who views, hears, or otherwise  
29 perceives an image or audio or video file that was initially  
30 distributed in violation of this section.

31 (g) The provisions of this section apply regardless of the  
32 language used in the advertisement or solicitation. If the language  
33 used is not English, the disclosure required by paragraph (2) of  
34 subdivision (b) shall appear in the language used in the  
35 advertisement or solicitation.

36 (h) The provisions of this section are severable. If any provision  
37 of this section or its application is held invalid, that invalidity shall  
38 not affect other provisions or applications that can be given effect  
39 without the invalid provision or application.

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1 SEC. 4. Section 1.5 of this bill incorporates amendments to  
 2 Section 35 of the Code of Civil Procedure proposed by both this  
 3 bill and Assembly Bill 2655. That section of this bill shall only  
 4 become operative if (1) both bills are enacted and become effective  
 5 on or before January 1, 2025, but this bill becomes operative ~~on~~<sup>at</sup>,  
 6 (2) each bill amends Section 35 of the Code of Civil Procedure,  
 7 as amended by Section 1 of Chapter 343 of the Statutes of 2023,  
 8 and (3) this bill is enacted after Assembly Bill 2655, in which case  
 9 Section 35 of the Code of Civil Procedure, as amended by Section  
 10 1 of this bill, shall remain operative only until the operative date  
 11 of Assembly Bill 2655, at which time Section 1.5 of this bill shall  
 12 become operative.

13 SEC. 5. Section 2.5 of this bill incorporates amendments to  
 14 Section 35 of the Code of Civil Procedure proposed by both this  
 15 bill and Assembly Bill 2655. That section of this bill shall only  
 16 become operative if (1) both bills are enacted and become effective  
 17 on or before January 1, 2025, but this bill becomes operative ~~on~~<sup>at</sup>,  
 18 (2) each bill amends Section 35 of the Code of Civil Procedure,  
 19 as amended by Section 2 of Chapter 343 of the Statutes of 2023,  
 20 and (3) this bill is enacted after Assembly Bill 2655, in which case  
 21 Section 35 of the Code of Civil Procedure, as amended by Section  
 22 2 of this bill, shall remain operative only until the operative date  
 23 of Assembly Bill 2655, at which time Section 2.5 of this bill shall  
 24 become operative.

25 SEC. 6. This act is an urgency statute necessary for the  
 26 immediate preservation of the public peace, health, or safety within  
 27 the meaning of Article IV of the California Constitution and shall  
 28 go into immediate effect. The facts constituting the necessity are:

29 California is approaching its ~~next~~<sup>next</sup> election influenced by artificial  
 30 intelligence ("AI"), where disinformation generated by AI can  
 31 distort voter awareness and perception of candidates, elections  
 32 of officials, elected officials, and voting apparatuses. In the lead-up  
 33 to the 2024 presidential election, candidates and bad actors are  
 34 already creating and distributing deepfake images and audio and  
 35 video content. In order to implement the provisions of this act and  
 36 safeguard the upcoming November 5, 2024 general election against  
 37 disinformation propagated by AI and deepfake media, it is  
 38 necessary for this act to take effect immediately.

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